MARK S. BAGULA, ESQ. [CSB No. 171141]
DAVINA A. B. BLOOM, ESQ. [CSB No. 236850]
THE WATKINS FIRM, APC
A Professional Corporation
4520 Executive Drive, Suite 105
San Diego, CA 92121
(858) 535-1511
(858) 535-1581 [Facsimile]

Attorneys for Defendants SURERIDE CHARTER, INC. dba SUN DIEGO CHARTER CO. (erroneously sued as "Sun Diego"), RICH ILLES, and SCOTT MCLEOD (erroneously sued as "Scott McLoud")

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Nour Eddine Elasali, Plaintiff, vs. Sun Diego, Rich Illes, Scott Mcloud, John Swets, Lori Ortiz, Lorenzo Ortiz, DOES 1 - 100, Defendants.	**CASE NO: C 07 cv02272 W (JMA)** **DECLARATION OF DAVINA BLOOM IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION; OR IN THE ALTERNATIVE, DUE TO A PARALLEL STATE ACTION PENDING.** Date: June 30, 2008 Judge: Hon. Thomas J. Whelan Dept: 7 [NO ORAL ARGUMENT PER LOCAL RULE]

I, Davina A. B. Bloom, declare:

1. I am an attorney of record and moving party with respect to the instant Motion to Dismiss. This declaration is prepared in support of Defendants SURERIDE CHARTER, INC. dba SUN DIEGO CHARTER CO. (erroneously sued as "Sun Diego"), RICH ILLES, and SCOTT MCLEOD's (erroneously sued as "Scott Mcloud") (hereinafter collectively referred to as "Defendants") Motion to Dismiss Plaintiff's Complaint. I have personal knowledge of the facts set forth herein, and if called as a witness I could competently testify thereto.

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2. On December 3, 2007, Plaintiff first filed a Complaint in Federal Court. However, said Complaint was dismissed because of a Motion that was denied. Thus, no fees were paid to have the Complaint filed in Court, which Defendants believe was the reason for the dismissal of the Complaint.

3. Plaintiff filed a Request for Appointment of Counsel, which was denied.

4. There were two (2) summons to the Complaint that were returned, one for Sureride and one for Rich Illes.

5. On January 11, 2008, Plaintiff's First Amended Complaint was filed with this Court.

6. I have personally reviewed Plaintiff's (State Court) Complaint, which we received from the San Diego Superior Court. An authentic and certified copy of this Complaint (that was filed with the Court on July 3, 2007) is attached as Exhibit 1 to Defendants' Request for Judicial Notice, which is being filed concurrently with this Motion.

7. On May 13, 2008, Defendants filed a Demurrer to Plaintiff's (State Court) Complaint. The hearing on this Demurrer is currently scheduled for July 11, 2008. A true and correct copy of Defendants' Demurrer to Plaintiff's (State Court) Complaint is attached as Exhibit 2 to Defendants' Request for Judicial Notice, which is being filed concurrently with this Motion.

8. I have personally reviewed the June 16, 2006 correspondence to Plaintiff from the Department of Fair Employment and Housing (hereinafter "DFEH".) The DFEH is a department within the State of California, and specifically within the State and Consumer Services Department. The DFEH issued Plaintiff a "Notice of Case Closure" letter, and further stated that the letter was also to be Plaintiff's "Right-To-Sue Notice". A true and correct copy of this letter (from a judicially noticeable governmental body) is attached as Exhibit 3 to Defendants' Request for Judicial Notice, which is being filed concurrently with this Motion.

9. It was not until after Defendants filed its Demurrer with the State Court (on May 13, 2008) that Plaintiff actually served Defendant ILLES with this Federal Complaint at issue.

10. Once Defendant Illes was served with this Federal Complaint, I called Plaintiff to discuss being Defendant Illes being served with a Federal Complaint. Specifically, on May 20, 2008, I informed Mr. Elasali that what he did was improper, seeing as how he already had a State Court Complaint regarding the same set of facts. Furthermore, I informed him that if he did not withdraw his

Complaint, and forced Defendants to file a Motion to Dismiss for the Complaint that was filed in bad faith, then Defendants were going to seek sanctions against Plaintiff. Mr. Elasali's response was that if the Judge ordered him to pay fees to Defendants, then that was "fine."

11. On May 12, 2008, I spoke to Plaintiff via a telephone call at about 2:36 p.m. At this time, I asked Mr. Elasali to provide me with some sort of way that I can serve him with papers in the future, whether it be by e-mail, fax, or a physical address (and not his P.O. Box address.) He informed me, and my assistant David Michael earlier that day, that the P.O. Box address is all that he had.

I declare under penalty of perjury in to the laws of the State of California that the foregoing is true and correct. Executed in San Diego, California on June 3, 2008.

Davina A. B. Bloom